

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 3
August 2017

ARKANSAS	HB 1405 (Act No. 734)	ENACTED March 28, 2017 EFFECTIVE January 1, 2018
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Monetary Entitlement

Changes the taxable wage base from \$12,000 to \$10,000 (effective for remuneration beginning after December 31, 2017).

Changes the maximum potential number of weeks of benefits from 20 weeks to 16 weeks, effective on claims filed on or after January 1, 2018.

Changes the handling of separation payments for initial claims filed on or after January 1, 2018. Separation payments are now disqualifying for the number of weeks following the date of separation that equals the number of weeks of wages received (previously, 8 weeks of separation was disqualifying and lump sum separation payments were disqualifying only in the week they were received). Employers must now specify the total amount of separation pay and the number of weeks of wages represented by the separation pay; should the employer fail in this regard, the Department of Workforce Services will allocate the separation pay using the claimant's average weekly wage.

ARKANSAS	SB 592 (Act No. 1038)	ENACTED and EFFECTIVE April 6, 2017
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Administration

Adds the term "personal services" to the allowable costs payable from the state's Unemployment Insurance Administration Fund.

Adds a provision allowing the Department of Workforce Service to add funds to the Unemployment Insurance Administration Fund should the tax on employers be insufficient to meet the needs of administering the program.

ARKANSAS	SB 635 (Act No. 1115)	ENACTED April 7, 2017 EFFECTIVE January 1, 2018
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Coverage

Adds that services performed by owner-operators of motor vehicle services and contracted services drivers of motor carriers to the list of work exempt from the definition of “employment” for Workforce Services law.

Adds a provision that an employee or agent of the owner-operator shall not be considered an employee of the motor carrier for purposes of employment security taxation or compensation, unless the service provided by the employee or agent constitutes employment performed by an employee under FUTA, or the owner-operator is a state or local government or a federally recognized Indian tribe.

IDAHO HB 203 ENACTED and EFFECTIVE March 24, 2017
(CH 146)

Administration

Establishes guidelines for the Secretary of State to create a centralized electronic filing system to accommodate the electronic filing of records and documents with the secretary of state’s office.

Amends the list of records that are exempt from disclosure to include any personal information collected by the Secretary of State used to make a user account in a state run electronic filing system.

MARYLAND SB 17 HB 141 ENACTED April 18, 2017
(CH 249) (CH 248) EFFECTIVE October 1, 2017

Nonmonetary Eligibility

Adds the term “business operation” to the entities that can seek exemption for claimants from active work search activities in the event of an entire or partial closure of a facility for vacation or a defined period. (Previously, only “plants” were allowed to seek this exemption from work search.)

MARYLAND SB 70 ENACTED April 18, 2017
(CH 262) EFFECTIVE October 1, 2017

Coverage

Provides that work performed by and expenses reimbursed to a qualifying youth sports worker for a youth sports organization is not covered employment.

Provides parameters on “Compensation.” Compensation does not include the actual and necessary expenses that are incurred by a qualifying youth sports worker in connection with the services provided or duties performed for the youth sports organization and then reimbursed to the qualified youth sports worker.

Defines the following terms:

“Qualifying Youth Sports Worker” means an individual who provides services or performs duties as an athletic coach, manager, program leader, or team assistant for compensation not exceeding \$1,250 per quarter of a calendar year for either the current calendar year or the preceding calendar year.

“Youth Sports Organization” means an athletic or recreational program organized for competition against another team, club, or entity or for the athletic instruction exclusively for participants who are under 19 years of age, that is qualified under Section 501(c)(4) or Section 501(c)(7) of the IRS code in the calendar year, that does not have any part of the net earnings benefitting any private shareholder and that has an adult employee or qualifying youth sports workers who has supervisory or disciplinary authority over youth participants. Youth Sports Organization does not include public or private educational institutions’ athletic programs or a school associated athletic activity.

MASSACHUSETTS HB 4319 ENACTED and EFFECTIVE January 1, 2017
(CH 376)

Administration

Provides that the chief of police in the town of Nantucket may, if the chief deems it necessary, appoint retired police officers as special police officers to perform police details or perform any police duties arising from those police details or arising during the course of police detail work, whether or not related to the detail work. Police officers appointed pursuant to chapter 376 of 2016 shall have been regular police officers and retired, based on superannuation.

Provides that these appointed special police officers shall not be subject to chapter 31 of the General Laws, section 85H of chapter 32 of the General Laws, or section 99A, 100 or 111F of chapter 41 of the General Laws, and shall be subject to section 96B of chapter 41 of the General Laws.

Provides that these appointed special police officers shall be subject to chapter 151A of the General Laws regarding unemployment insurance.

Note: Chapter 31 of the General Laws refers to civil service appointments; section 85H of chapter 32 refers to disability retirement of reserve police officers; section 99A of chapter 41 refers to police officers residing within the mileage limits of a city or town; section 100 of chapter 41 refers to indemnification of police officers and actions for intentional or negligent injuries inflicted upon them; section 111F of chapter 41 refers to leave without pay for incapacitated police officers due to non-fault duty sustained injuries; and section 96B of chapter 41 refers to attending police training schools.

MISSOURI HB 130 ENACTED April 24, 2017
EFFECTIVE August 28, 2017

Coverage

Defines “transportation network company” or “TNC” to mean a corporation, partnership, sole proprietorship, or other entity that is licensed and operating in the state of Missouri, that uses a digital network to connect TNC riders to TNC drivers who provide prearranged rides. A TNC shall not be deemed to own, control, direct, operate, or manage the TNC vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract.

Provides that, except as provided in section 387.433, all TNC drivers shall be independent contractors and not employees of the TNC if all of the following conditions are met:

- (1) The TNC does not prescribe specific hours during which a TNC driver must be logged into the TNC’s digital network;
- (2) The TNC imposes no restrictions on the TNC driver’s ability to utilize digital networks from other TNCs;
- (3) The TNC does not restrict a TNC driver from engaging in any other occupation or business; and
- (4) The TNC and TNC driver agree in writing that the driver is an independent contractor with respect to the TNC.

Provides that, except as described in section 387.433, transportation network companies shall not be considered employers of transportation network company drivers for purposes of chapters 285, 287, 288, and 290 of the Missouri Employment Security Law, except when agreed to by written contract. If the parties agree to the applicability of one or more of such chapters in a written contract, the transportation network company shall notify the appropriate agency of the election to cover the driver. If the parties subsequently change this election, the transportation network company shall notify the appropriate agency of the change.

Provides that the provisions of sections 387.414 and 387.432 shall not apply to entities described in section 501(c)(3) of the Internal Revenue Code, state or local government entities, or federally recognized Indian tribes.

Provides that, notwithstanding any other provision of law, sections 67.1800 to 67.1822 of the Missouri Revised Statutes shall not apply to transportation network companies, transportation network drivers, or transportation network services. Note: Sections 67.1800 to 67.1822 apply to taxicabs, airport taxicabs, on-call/reserve taxicabs and premium sedans referred to collectively as taxicabs, and define driver as an individual operator of a motor vehicle and may be an employee or independent contractor.

UTAH SB 194
 (CH 375)

ENACTED March 24, 2017
EFFECTIVE July 1, 2017

Administration

Establishes the Utah Data Research Center within the Workforce Research and Analysis Division within the state Department of Workforce Service. The center may employ staff; purchase, own, create, or maintain equipment necessary to: collect data from the participating entities, connect and de-identify data collected by the center, store connected and de-identified

data, conduct research on data stored or obtained by the center; or contract with a private entity, another state or federal entity, or a political subdivision of the state to carry out the center's duties.

Defines participating entities as: (a) the State Board of Education; (b) the State Board of Regents; (c) the Utah College of Applied Technology; (d) the Department of Workforce Services; and (e) the Department of Health. A participating entity shall contribute data to the data research program within guidelines established by the center.

Defines de-identified data as data about a person that cannot, without additional information, identify the person to another person or machine.

Provides that the center shall establish a data research program to analyze data that is: (a) collected over time; (b) aggregated from multiple sources; and (c) connected and de-identified.

Provides that the center may, in order to establish the data research program: (a) acquire property or equipment to store aggregated, connected, and de-identified data derived from data contributed by the participating entities; or (b) contract with a private entity or with a state government entity to: (i) store aggregated, connected, and de-identified data derived from data contributed by the participating entities; or (ii) utilize existing aggregated, connected, and de-identified data maintained by a state government entity.

Provides that the center may only release data maintained by the center in accordance with the procedures described by the Utah Data Research Center.

Provides that the data research program is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

Provides that the center shall use data that it maintains or that a participating entity contributes to the data research program to conduct research for the purpose of developing public policy for the state.

Provides that the director of the Workforce Research and Analysis Division with consultation by the Utah Data Research Advisory Board, shall create a prioritized list of data research for the center to conduct using the data research program each year. In developing the list, the center shall accept data research requests from: (i) a legislative committee or a legislative staff office; (ii) the governor or an executive branch agency; (iii) the State Board of Education; (iv) the State Board of Regents; and (v) the Utah College of Applied Technology.

Provides that the department shall begin accepting the data research requests on July 1, 2017, and the center shall report the list to the Education Interim Committee before December 1 of each year.

Provides that, in addition to conducting data research in accordance with the prioritized list, the center may use additional resources to prepare data research at the request of: (a) a state

government entity; (b) a political subdivision of the state; (c) a private entity; or (d) a member of the public.

Provides that the director, with approval by the Utah Data Research Advisory Board, shall determine, for a data research request: (a) whether the center has the resources to complete the data research request; (b) the order in which the center shall complete the data research request, if at all; and (c) a reasonable estimated cost for the request. The center, after evaluating a request, shall: (a) provide the person that requested the data research with a cost estimate; and (b) require, before accepting a data research request, that the person that submitted the data research request agree to pay, once the data research is complete, the full cost of completing the data research request as determined by the center.

Provides that the center shall make available to the public on a website any data research request that the center completes and ensure that any data contained in a completed data research request is de-identified.

Requires the center to: (a) establish, by rule (i) procedures for submitting a data research request; (ii) criteria to determine how to prioritize data research requests; and (iii) minimum standards for information a person is required to include in a data research request; and (b) create a fee schedule for completing a data research request.

Provides that, if requested, the center may release a data set from the data research program if the data set is: (a) connected; (b) aggregated; and (c) de-identified.

Provides that any fee collected shall be used to cover the center's costs. Any fee not used to cover the center's costs shall be deposited into the General Fund.

Provides that the center shall also create an online data visualization portal that provides access to the public to connected, aggregated, and de-identified data in the program including role-based dashboards that: (a) allow a user to query data in the program; (b) integrate real-time data; and (c) allow a user to view queried data in a customizable environment.

Provides that the center shall report to the Education Interim Committee before July 1 of each year regarding the center's: (i) research priorities for the year; and (ii) completed research from the previous year; and before December 1 of each year, the center's ongoing data research priority list. The Education Interim Committee shall provide the center ongoing input regarding the center's data research priorities.

WYOMING

HB 80
(CH 132)

ENACTED and EFFECTIVE March 3, 2017

Administration

Establishes requirements for transportation network companies, including driver requirements and disclosure requirements; provides exclusions for transportation network companies and transportation network drivers; specifies insurance requirements for transportation network

companies and company drivers; authorizes related insurance policy exclusions; supersedes local government regulations which conflict with this act; and conforms provisions.

Defines transportation network company as a corporation, partnership, sole proprietorship, or other entity which operates pursuant to chapter 20 of title 31 of the Wisconsin Statutes and uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company shall not be deemed to control, direct, or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract.

Defines transportation network company vehicle as a vehicle that is used by a driver to provide a prearranged ride and owned, leased, or otherwise authorized for use by the driver.

Coverage

Provides that a driver shall be an independent contractor, not subject to the Wyoming Worker's Compensation Act and not an employee of a transportation network company if:

- (i) The transportation network company does not unilaterally prescribe the hours during which a driver must be available to receive requests for prearranged rides;
- (ii) The transportation network company imposes no restrictions on the driver's ability to use digital networks of other transportation network companies to provide prearranged rides;
- (iii) The transportation network company does not restrict a driver from engaging in commercial activities unrelated to providing prearranged rides; and
- (iv) The transportation network company and driver agree in writing that the driver is an independent contractor with respect to the transportation network company.

Provides that a transportation network company shall not be deemed to control, direct, or manage the transportation network company vehicles or drivers that connect to its digital network, except when agreed to by written contact. Notwithstanding any other provision of law, a transportation network company or a driver shall not be deemed a commercial vehicle operator, a common carrier, a contract carrier, a motor carrier, or a motor club.

Provides that neither a transportation network company nor a driver shall include services performed:

- (i) In the employ of a state, or any political subdivision of the state, or in the employ of an Indian tribe, or any instrumentality of a state, any political subdivision of a state, or any Indian tribe that is wholly owned by one or more states or political subdivisions or Indian tribes, provided that the service is excluded from employment as defined in the Federal Unemployment Tax Act, 26 U.S.C. sections 3301 and 3306(c)(7);
- (ii) In the employ of a religious, charitable, educational, or other organization that is excluded from employment as defined in the Federal Unemployment Tax Act, 26 U.S.C. sections 3301 through 3311, solely by reason of 26 U.S.C. section 3306(c)(8).